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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,867	08/09/2001	James J. Fitzgibbon	71860	3851

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EXAMINER

HAMILTON, KIMBERLY Y

ART UNIT PAPER NUMBER

2635

DATE MAILED: 07/14/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

JK

Office Action Summary

Application No.

09/925,867

Applicant(s)

FITZGIBBON, JAMES J.

Examiner

Kimberly Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-15, 17-21 and 23 is/are rejected.
- 7) ☒ Claim(s) 9-11, 16 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 28 October 2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure. The applicant's abstract exceeds 150 words and the format is in two paragraphs opposed to one.

The abstract should be in narrative form and generally **limited to a single paragraph** on a separate sheet within the **range of 50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Drawings

2. The drawings Figs. 1 and 3-6 are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description:

- ❖ Pg. 5, lines 6 and 17 disclose **receiver 80**; pg. 5, line 24 **command switch 39d**. (Fig. 1)
- ❖ Pg. 6, line 39 – pg. 7, line 1 discloses **power take-off shaft 108** (Fig. 3)
- ❖ Pg. 7, line 23 discloses **diode 600** (Fig. 4)
- ❖ Pg. 9, line 19 discloses **line 200** (Fig. 5)
- ❖ Pg. 10, lines 23-26 and 30-31 disclose **drive transistor 105a, relay 105b, driver transistor 107a and relay 107b**; pg. 10, lines 36-39 **switch 151** (Fig. 6)

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures

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appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings of Figs. 1-6 and 8A/B are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- ❖ Fig. 1 '16'
- ❖ Fig. 2 '40 Timer'
- ❖ Fig. 3 '81'
- ❖ Fig. 4 '606', '606', '623', '624', and '630'
- ❖ Fig. 5 '82'
- ❖ Fig. 6A '385' - '387', '102', '369', and '82'
- ❖ Fig. 8A '502' and '508'
- ❖ Fig. 8B step '543'

Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing

figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter.

4. Claims 2, 4-6, 12-15, 17-20 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 2, 4-6, 12-15, 17-20 and 23, the phrase "**type**" (similar to the phrase "or the like") renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "**type**" or "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

5. Claim 3 recites the limitation "**the first access code for moving the barrier**" in pg. 13, line 29. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C 103(a) as being unpatentable over Blaker (US 6703941) in view of Farris et al. (US 5949349).

Regarding claim 1, Blaker, who teaches a trainable transmitter, teaches a transceiver that comprises a receiver for receiving a first signal A from an original remote control transmitter 4 during the training mode (col. 1, lines 61-63). In addition, Blaker teaches the trainable transmitter as being capable of transmitting a signal B (being the second signal) to the operator (read as garage door opener) (col. 2, lines 54-58). Henceforth the first signal (A) from the original transmitter and the second signal (B) from the trainable transmitter have a relationship in that both transmitters are capable of operating the garage door opener. The learning mode process for the trainable transmitter must be done within a predetermined time frame in order to receive the signal from the original transmitter (col. 2, lines 17-24); however, Blaker does not teach that the trained transmitter has to send the new learned signal to the operator within a predetermined time.

Farris, who teaches a barrier movement system which is actuated by rolling codes, teaches that when the system is in a learning mode, the operator (controller 219) is to receive possible actuation codes within a 30 second time frame and then resets itself (col. 5, lines 62-65). In addition, the operator 219 interprets, stores, and compares the new received codes with the previous codes for possible barrier movement (col. 5, lines 54-58). The predetermined time frame for the operator to receive and store the new learned codes is a means to prevent unauthorized transmitters to be stored into the system; henceforth, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a set time period of which the operator can receive the new learned code from

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the learned transmitter as Farris suggests into the system of Blaker, because Blaker teaches that the learning mode process for the trainable transmitter must be done within a predetermined time frame in order to receive the signal from the original transmitter (col. 2, lines 17-24), and Farris teaches that the operator must receive the new codes within a 30 seconds while in the learning mode (col. 5, lines 62-65), for it provides better security for those limiting access to the barrier controlling system.

7. Claims 2, 4-6, 8, 17-18, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris in view of Blaker in further view of Dykema et al. (US 5661804).

Regarding claim 2, Farris in view of Blaker expressively discloses a barrier movement system that comprises a trainable transceiver that comprises a receiver for receiving a first signal A from an original remote control transmitter 4 during the training mode (col. 1, lines 61-63). In addition, Blaker teaches the trainable transmitter as being capable of transmitting a signal B (being the second signal) to the operator (read as garage door opener) (col. 2, lines 54-58). Henceforth the first signal (A) from the original transmitter and the second signal (B) from the trainable transmitter have a relationship in that both transmitters are capable of operating the garage door opener. In addition, Farris teaches that the operator must receive the new codes within a 30 seconds while in the learning mode (col. 5, lines 62-65), for it provides better security for those limiting access to the barrier controlling system. Moreover, Farris in view Blaker teaches that the learned codes are rolling codes (first security code) and utilizes the fixed code portion (col. 8, lines 20-23), and stores the code in the respective register (col. 8, lines 35-36). In addition, Farris teaches the rolling codes as being security codes, because rolling codes provide increase security for fixed codes (col. 8, lines 25-26). Additionally, Farris teaches that after receiving

and learning the fixed and rolling codes; the codes go into the memory and are compared with the previously stored codes for possible access control (col. 2, lines 39-51). However, Farris in view of Blaker does not teach the method of a trainable transmitter learning a rolling code.

Although the learning transmitter method is well known to one of ordinary skill in the art, Dykema, who teaches a barrier movement system the wherein has training capabilities for new transmitter to learn a varying (rolling) code (Abs. lines 1-4), teaches a trainable transceiver 43 that learns a signal B from a pre-existing, portable remote transmitter 65 and then transmits the learned signal B to the operator device 66 (read as garage door opener) (col. 6, lines 51-57). Since rolling (varying) codes are known to provide better prevention means of signal interception (signal grabbing), it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a rolling code learning method of Dykema into the barrier movement systems with trainable transmitter of Farris in view of Blaker, because Farris in view of Blaker teaches a system that utilizes rolling codes, and also teaches the process of a trainable transmitter, but Dykema teaches the method of a rolling code learning method of a trainable transmitter to prevent code theft.

Regarding claim 4., Farris teaches that as aforementioned, the first rolling type access code and the second rolling type access code comprises a rolling code portion and at least one fixed identification portion (col. 2, lines 51-54).

Regarding claim 5, Farris teaches the first rolling type access code, for example from transmitters 153 and 155, comprises a fixed identification portion recognized by the

operator in that which results in barrier movement in response to the codes received (col. 3, lines 50-60).

Regarding claim 6, Farris teaches as aforementioned, a predetermined relationship that exists when the second rolling type access code comprises substantially the same fixed identification portion as the first rolling type access code, and the second rolling type access code is next in sequence to the first rolling code access code.

Regarding claim 8, Farris teaches the fixed identification portion is a transmitter type (model) identification portion (col. 1, lines 55-56).

Regarding claims 17 and 18, Farris teaches a barrier movement operator system, comprising a receiver for receiving, learning and responding to transmitted rolling code type access codes (col. 2, lines 34-45). In addition, Farris teaches a system that comprises of at least one trained transmitter 155 for operating the system by transmitting a rolling code type access code to the receiver (col. 3, lines 50-53). Also, Farris discloses the rolling code including a fixed identification portion recognized by the system (col. 2, lines 51-54). Farris further teaches a device for provide barrier movement, such as gate in response to the access code that it received by the receiver (col. 3, lines 56-60).

Regarding claim 20, Farris teaches a code wherein the fixed identification portion of the rolling type access code is the identification of the transmitter (col. 1, lines 55-56).

Regarding claim 21, Farris teaches an operator system wherein the controller 219 is implemented using a programmable micro-controller in that which is able to learn the new received codes and store them in non-volatile memory and compare the codes (col. 5, lines 54-58).

Regarding claim 23, Farris teaches a barrier operating system wherein the first rolling codes is stored (col. 8, lines 35-36). In addition, Farris teaches that at each transmission, the rolling code varies, thus making the new code a modified code that is transmitted from the transmitter (col. 2, lines 51-54). Moreover, Farris discloses that although rolling code varies (modifies), there is a distinct relationship between the rolling codes wherein the fixed code within the rolling code remains constant. Also, Farris explains that each received code is stored and compared to the previous codes in the event that one may want to can access through the barrier (col. 2, lines 42-44).

8. Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris in view of Blaker in further view of Dykema in further view (hereinafter Farris) of Doppelt et al. (US 5969637).

Regarding claims 7 and 19, Farris teaches that the fixed identification portion can be transmitter type (model) identification (col. 1, lines 55-56); however, Farris does not expressively disclose the fixed identification portion as a transmitter number.

However, Doppelt, who teaches a garage door opener with light control, teaches the fixed identification portion is a transmitter number identification portion (col. 6, lines 38-41). The serial number of a transmitter as a fixed code provides more security for an access control system, for the transmitters' usage can be monitored as in some system; henceforth, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the fixed identification portion to be the serial number of a transmitter as Doppelt suggests in to the fixed codes of Farris, because Farris teaches that the fixed code can be the transmitter type (or model), and Doppelt teaches the fixed codes as being a

means to identify the transmitter by serial number to enhance security for access control systems that have multiple transmitters.

Allowable Subject Matter

9. Claims 3, 9-11, 16 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 3, 9-11 and 22 are allowed, because prior art of record does not expressly disclose the limitations therein:

- ❖ Claims 3 and would be allowable if rewritten, because prior art of record does not expressly disclose a barrier movement system that receives a signal from a transmitter to stop at a mid-travel level, and recording the level as a starting point for a learning process as disclosed in claims 3, 10 and 16. Claim 11 would be allowable by default, for it is dependent on claim 10.
- ❖ Claim 9 would be allowable if rewritten, because prior art of record does not expressly disclose the learning process of wherein prior to receiving a first transmitter access code by the operator, a barrier is closed while the first transmitter and the learning transmitter are placed between the barrier and the barrier movement operator.
- ❖ Claim 22 would be allowable, because prior at of record does not expressly disclose an operator system including a timer to run time between last operation of the barrier by the trained transmitter and receipt of transmission from the learning transmitter by the system.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Hamilton whose telephone number is 703.305.8975. The examiner can normally be reached between 7am - 3:30pm from Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 703.305.4704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kimberly Hamilton
Examiner
Art Unit 2635
23 June 2004

KYH

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
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